

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

JOHNNY SIMMONS,

Petitioner,

v.

JAMES R. McDONOUGH, Secretary,
Florida Department of Corrections,

Respondent.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED.

CASE NO. 1D05-6172

Opinion filed November 21, 2006.

Petition for Writ of Certiorari -- Original Jurisdiction.

Johnny Simmons, pro se, Petitioner.

Rosa Carson, General Counsel, and Sherry Anita Toothman, Assistant General
Counsel, Florida Department of Corrections, Tallahassee, for Respondent.

PER CURIAM.

We deny the petition for writ of certiorari on the merits as to petitioner's claim
that the circuit court departed from the essential requirements of law when it denied

his petition for writ of mandamus. However, because petitioner's claim constituted a collateral criminal proceeding within the meaning of section 57.085(10), Florida Statutes, the trial court improperly imposed liens upon petitioner's inmate trust account for payment of court costs and fees. See Cox v. Crosby, 31 Fla. L. Weekly D310 (Fla. 1st DCA Jan. 26, 2006), rev. granted sub nom., McDonough v. Cox, 924 So. 2d 809 (Fla. 2006).

Accordingly, we grant the petition for writ of certiorari to the extent it challenges the order imposing a lien for the payment of court costs and fees incurred in the mandamus proceedings before the circuit court, and quash that order. We likewise grant petitioner's motion for review of the circuit court's appellate indigency order, and quash the portion of that order imposing a lien. The trial court should direct the reimbursement of any funds that have been withdrawn from petitioner's account to satisfy the improper lien orders.

KAHN, HAWKES, and THOMAS, JJ., CONCUR.